

UNITED STATES COURT OF APPEALS February 17, 2009
FOR THE TENTH CIRCUIT Elisabeth A. Shumaker
Clerk of Court

LARRY DARNELL PINSON;
LANELLE OLIVER PINSON,
husband and wife,

Plaintiffs - Appellants,

v.

EQUIFAX CREDIT INFORMATION
SERVICES, LLC; CSC CREDIT
SERVICES; EXPERIAN
INFORMATION SOLUTIONS, INC.;
TRANS UNION, LLC; CAPITAL
ONE SERVICES, INC.; CAPITAL
ONE BANK FSB; LITTON LOAN
SERVICING, LP,

Defendants - Appellees.

No. 09-5012
(D.C. No. 4:06-CV-00162-GKF-SAJ)

ORDER

Before **BRISCOE**, **LUCERO**, and **TYMKOVICH**, Circuit Judges.

Plaintiffs Larry and Lanelle Pinson appeal the district court's order denying their "appeal" of the clerk's taxation of costs against them. This court entered an order to show cause as to why the appeal should not be dismissed for lack of appellate jurisdiction because the notice of appeal appeared to have been filed late. The Pinsons filed a response to that order.

“A timely notice of appeal is both mandatory and jurisdictional.” *Allender v. Raytheon Aircraft Co.*, 439 F.3d 1236, 1239 (10th Cir. 2006) (quotation omitted). In a civil case, a notice of appeal “must be filed with the district clerk within 30 days after the judgment or order appealed from is entered.” Fed. R. App. P. 4(a)(1)(A). Although the Pinsons are proceeding *pro se*, they still must comply with the same procedural requirements that govern other litigants. *Kay v. Bemis*, 500 F.3d 1214, 1218 (10th Cir. 2007); *Ogden v. San Juan County*, 32 F.3d 452, 455 (10th Cir. 1994).

Here, the district court’s order was entered December 15, 2008. To be timely, the notice of appeal must have been filed by January 14, 2009. The Pinsons did not file the notice of appeal until January 15, 2009, one day after the 30-day deadline passed. Neither a timely motion seeking an extension of time to file a notice of appeal nor a motion to reopen the time to appeal was filed in the district court. *See* Fed. R. App. P. 4(a)(5), (6). Although the Pinsons asserted that their current medical condition warrants an exception to the time requirements for filing a notice of appeal, the United States Supreme Court has made clear that federal courts “ha[ve] no authority to create equitable exceptions to jurisdictional requirements,” including the jurisdictional requirement that a notice of appeal be filed timely. *Bowles v. Russell*, 551 U.S. 205, 127 S. Ct. 2360, 2366 (2007).

Because the notice of appeal was filed untimely, this appeal is DISMISSED

for lack of jurisdiction. This order has no effect on the Pinsons' other pending appeal, Case No. 08-5063.

Entered for the Court,
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read "Lara Smith". The signature is written in a cursive, flowing style.

by: Lara Smith
Counsel to the Clerk